

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ORLANDO PAUL,

Plaintiff,

v.

TERRY SNOW, et al.,

Defendants.

Case No. 4:21-cv-00496-SEP

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. On April 28, 2021, Plaintiff Orlando Paul, an inmate at the Missouri Eastern Correctional Center (MECC), filed this 42 U.S.C. § 1983 action alleging violations of his civil rights against two corrections officials. Doc. [1]. He also filed an Application to Proceed Without Prepaying Fees or Costs, Doc. [3], which the Court granted on August 20, 2021. Doc. [8]. On review of the Complaint pursuant to 28 U.S.C. § 1915(e)(2), the Court determined that it was defective and subject to dismissal but also granted Plaintiff time to file an amended complaint to cure the defects. *Id.* at 3-5. The Court explained why the Complaint was subject to dismissal, gave Plaintiff clear instructions about how to prepare an amended complaint, and cautioned him that failure to timely file an amended complaint may result in the dismissal of his case without prejudice and without further notice. *Id.* at 3-5. The Court also directed Plaintiff to pay an initial partial filing fee. *Id.* at 5.

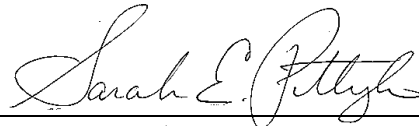
Plaintiff's response was due on September 20, 2021. To date, he has neither filed an amended complaint nor sought additional time to do so. The Court gave Plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time. Therefore, this action will be dismissed without prejudice for failure to comply with the Court's August 20, 2021, Order. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) ("A district court has power under Fed. R. Civ. P. 41(b) to dismiss an action for the plaintiff's failure to comply with any court order"); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal of *pro se* litigant's complaint under Fed. R. Civ. P. 41(b) for failure to file an amended complaint). Because the basis for dismissal is not listed in 28 U.S.C. § 1915(g), this dismissal shall not count as a "strike" under the same.

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal shall also be entered.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 16th day of February 2022.

A handwritten signature in cursive script, reading "Sarah E. Pitlyk", written in black ink.

SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE